

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

PATRICK BERNARD SMITH,
#0896428,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Respondent.

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Case No. 6:21-cv-032-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner Patrick Bernard Smith, an inmate confined at the Powledge Unit of the Texas Department of Criminal Justice, proceeding pro se, filed this federal petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition was referred to United States Magistrate Judge, the Honorable K. Nicole Mitchell, for findings of fact, conclusions of law, and recommendations for disposition.

On January 21, 2021, Judge Mitchell issued a Report and Recommendation recommending that the Court deny the petition and dismiss the case with prejudice on the merits of the petition. Judge Mitchell also recommended that a certificate of appealability be denied. Docket No. 5. Petitioner timely objected. Docket No. 7.

Where a party objects within fourteen days of service of the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en*

banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Petitioner's objections generally rehash the grounds of his original petition. His objections do not, however, address the issues with the petition identified in the Report—specifically, that the discipline imposed on Petitioner is insufficient to trigger constitutional protections.

Having conducted a de novo review of the Report and the record in this case, the Court has determined that the Report of the United States Magistrate Judge is correct, and Petitioner's objections are without merit. The Court therefore **OVERRULES** Petitioner's objections (Docket No. 7) and **ADOPTS** the Report and Recommendation of the Magistrate Judge (Docket No. 5) as the opinion of the District Court. Petitioner's petition for habeas corpus is hereby **DISMISSED** with prejudice. Further, the Court **DENIES** a certificate of appealability.

So ordered and signed on this
Feb 16, 2021


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE